

15, are added. None of the amendments add new matter and, as explained above, merely change claims from dependent into independent form or adjust claim dependencies.

Entry of the instant Amendment is appropriate because the Amendment narrows the outstanding issues and, Applicants believe, places the case in condition for allowance. It is further noted that the instant Amendment proposes to cancel a larger number of claims than the number of new claims it proposes to enter.

Upon entry of the instant Amendment, Claims 15-20 and Claims 37-40 will be pending. A marked-up copy showing amendments to the claims is attached hereto as Exhibit A. A clean copy of the claims that will be pending upon entry of the instant Amendment is attached hereto as Exhibit B.

Applicants also submit concurrently herewith the formal drawings in this application, accompanied by transmittal sheet and fee authorization.

In a routine review of our files, Applicants noted that copies of two references cited in a PTO form 1449, references BD and CJ, were inadvertently omitted from the corresponding Information Disclosure Statement ("IDS"). In a telephone interview, the Examiner kindly indicated that the references had been obtained in an independent search, and that both references had been considered in the examination of the present application. Applicants sincerely appreciate the Examiner's independent resolution of this issue. However, merely in order to complete the file, Applicants submit herewith, as *Appendix A*, copies of the two references that were omitted from the IDS. Specifically, Applicants submit a copy of reference BD, Gately *et al.*, 1991, "Interleukin 12: A Novel Heterodimeric Cytokine with Potential Antitumor Applications", *Neuroimmunol. Res.* 4:20-32, and reference CJ, Wong *et al.*, 1986, "Characterization of a Human CTL Maturation Factor", *Abst., 6th Int'l. Congress of Immunol.* 311.

Entry of the amendments and remarks contained herein is therefore respectfully requested.

I. The Rejections Under 35 U.S.C. § § 102(e) and 103(a) Should Be Withdrawn.

Claims 1-4 and 29 stand rejected under 35 U.S.C. § 102(e) as anticipated by Trinchieri *et al.* (“Trinchieri”) as evidenced by Gately and Carter *et al.* (“Carter”). Upon entry of the instant Amendment, none of Claims 1-4 or 29 will be pending. Thus, without acquiescing to the propriety of the rejection, Applicants respectfully submit that this rejection has been obviated and thus should be removed.

Claims 1, 5, 14, 18 and 20 stand rejected under 35 U.S.C. § 103(a) as obvious over Trinchieri in view of Gately and Bendig and the alleged “admissions” at page 16 of the specification. Upon entry of the instant Amendment, none of Claims 1, 5, or 14 will be pending. Further, upon entry of the instant Amendment, Claims 18 and 20 will ultimately depend from Claim 15, a claim that is not rejected as part of this rejection. Thus, without acquiescing to the propriety of the rejection, Applicants respectfully submit that this rejection has been obviated and thus should be removed.

Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. §§ 102(e) and 103(a).

II. The Double Patenting Rejection Should be Withdrawn

Claims 1, 5, 14-20 and 29 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-23 of U.S. Patent No. 6,225,117. Upon entry of the instant Amendment, none of Claims 1, 5, 14 or 29 will be pending. With respect to Claims 15-20, Applicants submit herewith a Terminal Disclaimer that, as discussed in detail in the Terminal Disclaimer, disclaims the terminal part of any

patent granted on the above-identified application that would extend beyond the expiration date of U.S. Patent No. 6,225,117. Applicants note that Claims 15-17, 19, and ²⁰~~21~~ stand rejected only under the judicially created doctrine of obviousness-type double patenting and have otherwise been found to be patentable. Therefore, Applicants respectfully submit that the Terminal Disclaimer filed herewith places these claims in condition for allowance. Thus, Applicants respectfully submit that the double patenting rejection has been obviated and should be removed.

15-20

103-15 14 18 20

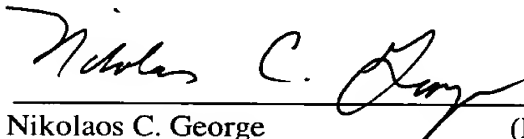
Accordingly, Applicants respectfully request that the double patenting rejection be withdrawn.

CONCLUSION

In view of the preceding amendments and remarks, Applicants respectfully submit that the claims satisfy all requirements for patentability and are in proper condition for allowance. Applicants respectfully request reconsideration and withdrawal of each ground of rejection set forth in the March 11, 2002 Office Action and earnestly solicit favorable action on all pending claims.

Respectfully submitted,

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Nikolaos C. George 39,201
(Reg. No.)
PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036
(212) 790-9090